

# Nature Conservation (Protected Areas) (Eastern Kuku Yalanji Area) Amendment Regulation 2024

Explanatory notes for SL 2024 No. 234

made under the

*Nature Conservation Act 1992*

## General Outline

### Short title

*Nature Conservation (Protected Areas) (Eastern Kuku Yalanji Area) Amendment Regulation 2024.*

### Authorising law

Sections 29, 33, 42AA, 46, 64 and 175 of the *Nature Conservation Act 1992* (NC Act).

### Policy objectives and the reasons for them

The objectives of the *Nature Conservation (Protected Areas) (Eastern Kuku Yalanji Area) Amendment Regulation 2024* (Amendment Regulation) are to:

- dedicate four parcels of Daintree National Park as Daintree National Park (Cape York Peninsula Aboriginal Land) (CYPAL), in the Cape York Peninsula Region (CYPR);
- dedicate three parcels of State land as part of Girringun National Park in the Charters Towers Regional Council (CTRC) area;
- dedicate one parcel of Ngalba Bulal National Park as Ngalba-bulal National Park (Cape York Peninsula Aboriginal Land) in the CYPR;
- dedicate one parcel of State land as part of Pinnacles National Park in the Townsville City Council (TCC) area;
- dedicate one parcel of State land as part of The Lakes National Park in the Flinders Shire Council (FSC) area; and
- declare the Eastern Yalanjiwarra Nature Refuge over the entirety of one parcel of Aboriginal freehold land and part of a second lot of Aboriginal freehold land in the CYPR.

The State, Wet Tropics Management Authority (WTMA), Cape York United Number 1 Claim Applicants and Jabalbina Yalanji Aboriginal Corporation Registered Native Title Body Corporate (RNTBC) (Jabalbina) signed an Indigenous Land Use Agreement (ILUA) in September 2021 which supports the Tropical North Queensland Region part of the amendment regulation proposal. In addition, the State, WTMA and Jabalbina agreed to an Indigenous Management Agreement (IMA) which outlined how jointly managed national parks would be managed, and the State and Jabalbina signed a Conservation Agreement in support of the management of the nature refuge.

The Queensland Government has made a commitment to resolve tenure of all national parks and certain other State lands in the CYPR. As part of this resolution the Government will work with Cape York people to protect Cape York's iconic natural areas and to continue arrangements for joint management of protected areas in the CYPR with Aboriginal Traditional Owners.

## Achievement of policy objectives

To achieve its objective, the amendment regulation amends:

1. ***Schedule 2: National parks of the Nature Conservation (Protected Areas) Regulation 1994*** to redescribe two existing national parks and subsequently dedicate parts as Cape York Peninsula national parks and to dedicate State land as part of three existing national parks and redescribe the national parks. The redescribed areas represent the following:

### Daintree National Park

- note: structural encroachments identified over four lots of Daintree National Park have been resolved and can now be dedicated as Daintree National Park (CYPAL).
- redescribe the existing Daintree National Park as lot 406 on SP296955, lots 155, 220 and 900 on SP296959, lot 14 on SP296960, lot 17 on SP309100, lot 82 on SP309103, lot 95 on SP309104, lot 24 on SP309105 and lot 95 on W3451 containing an area of 16.0437 hectares.
- change the class by dedicating part of Daintree National Park described as lot 8 on SP296956, lots 21 and 198 on SP296959 and lot 44 on SP309105, containing an area of 6.001 hectares as national park (CYPAL).

### Girringun National Park

- dedicate land described as lots 2, 10 and 13 on SP347209, containing a total area of about 7,188 hectares, as part of Girringun National Park, about 56 kilometres north-west of Ingham in the CTRC area.
- redescribe the existing Girringun National Park as lots 1, 11, 18 to 21, 43 and 78 on AP22472, lot 1 on CP862120, lot 1 on SP124700, lot 3 on SP126731, lot 1 and 3 on SP301977, lot 6 on SP315884, lots 2, 10 and 13 on SP347209 and lot 9 on USL38632, containing an area of about 320,626.721 hectares.

#### Ngalba Bulal National Park

- note: required tenure actions have been completed for one lot of Ngalba Bulal National Park and the land can now be dedicated as Ngalba-bulal National Park (CYPAL).
- redescribe the existing Ngalba Bulal National Park as lot 4 and 21 on SP154458, containing an area of 3.1479 hectares.
- dedicate part of Ngalba Bulal National Park described as lot 11 on SP320133, containing an area of 5 hectares as national park (CYPAL).

#### Pinnacles National Park

- dedicate land described as lot 2202 on SP347197, containing a total area of about 17,000 hectares, as part of Pinnacles National Park, about 32 kilometres south-west of Townsville in the TCC area.
- redescribe the existing Pinnacles National Park as lot 100 on SP236363, lot 29 on SP305926, lot 2 on SP313076, lot 2202 on SP347197, lot 2 on plan USL38376 and lot 19 on plan USL38415, containing an area of about 24,467 hectares.

#### The Lakes National Park

- dedicate an area described as lot 12 on SP350355, containing a total area of about 1,590 hectares, as part of The Lakes National Park, about 210 kilometres west of Charters Towers in the FSC area. This area of closed road enhances the existing national park, which protects a regional ecosystem containing significant breeding and feeding sites for waterbirds with an 'of concern' biodiversity status.
- redescribe the existing The Lakes National Park as lot 8 on SP248068, lot 10 on SP345586 and lot 12 on SP350355, containing an area of about 44,850 hectares.

### **2. *Schedule 4: National parks (Cape York Peninsula Aboriginal land) of the Nature Conservation (Protected Areas) Regulation 1994* to:**

- dedicate part of the Daintree National Park (CYPAL) described as lot 8 on SP296956, lots 21 and 198 on SP296959 and lot 44 on SP309105, containing an area of 6.001 hectares.
- redescribe Daintree National Park (CYPAL) as lot 107 on RP737399, lot 4 on SP288855, lots 1 to 4 on SP296954, lots 4 to 6 on SP296955, lots 7 and 8 on SP296956, lots 8 and 9 on SP296958, lots 20, 21, 96 and 198 on SP296959, lots 10 to 13 and 15 on SP296960, lot 16 on SP296966, lot 1 on SP304069, lots 2 and 3 on SP304070, lots 15, 16 and 18 to 20 on SP309100, lots 52 to 55 on SP309102, lot 81 on SP309103, lots 92 to 94 on SP309104, lots 18 and 44 on SP309105, lots 24 and 25 on SP309114 and lot 48 on SP309121, containing an area of 116,619.152 hectares.
- dedicate part of the Ngalba-bulal National Park (CYPAL) described as lot 11 on SP320133, containing an area of 5 hectares.
- redescribe Ngalba-bulal National Park (CYPAL) as lots 1 to 3, 22 and 212 on SP154458 and lot 11 on SP320133 containing an area of 42,543.4719 hectares.

### **3. *Schedule 5: Nature Refuge of the Nature Conservation (Protected Areas) Regulation 1994* to:**

- declare Eastern Yalanjiwarra Nature Refuge over lot 63 on RP898391 and part of lot 10 on SP296958, containing an area of about 112.058 hectares.

## **Consistency with policy objectives of authorising law**

The Amendment Regulation is consistent with the objectives of the NC Act, namely:

- the dedication and declaration of areas representative of the biological diversity, natural features and wilderness of the State as protected areas;
- the recognition of the interest of Aboriginal People and Torres Strait Islanders in the protected areas, landscapes, native flora and wildlife;
- to ensure the conservation of nature while allowing for Indigenous involvement, community use and appropriate commercial use of protected areas; and
- the Governor in Council may make regulations under the NC Act.

## **Inconsistency with policy objectives of other legislation**

The Amendment Regulation is consistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

The benefits of the Amendment Regulation are that the areas will enable joint management of the national parks (CYPAL) between the Aboriginal Traditional Owners and Aboriginal people particularly concerned with the land and the Queensland Government. The action facilitates an opportunity for Traditional Owners to explore economic sustainability through expansion of local commercial recreation and ecotourism ventures.

Resolving tenure for the five parcels of national park in the Cape York Peninsula Region is of benefit to the State as it confirms joint land management responsibilities and is of benefit to local Traditional Owners as this is a recognition of owning their country.

The addition of the parcels in the FSC, TCC and CTRC areas provides protection for a range of endangered and of concern habitats that support known populations of threatened fauna, including the Southern Cassowary, the Mahogany Glider, Sharmans Rock-wallaby and the Tube-nosed Insectivorous Bat.

Implementing the Amendment Regulation will result in no additional costs to the Queensland Government. The dedication of the national parks (CYPAL) will not impact protected area management costs as this is already accounted for in the existing IMA.

In accordance with *The Queensland Better Regulation Policy*, a Summary Impact Analysis Statement (IAS) was prepared in relation to the regulatory proposal. The proposal is considered minor and machinery in nature and will not result in a substantive change to regulatory policy or new impacts on business, government or the community. No further regulatory impact analysis is required.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is consistent with fundamental legislative principles. It complies with relevant requirements of section 4(5) of the *Legislative Standards Act 1992*, namely it:

- a) is within the power that, under an Act or subordinate legislation (the authorising law), allows the subordinate legislation to be made; and

- b) is consistent with the policy objectives of the authorising law; and
- c) contains only matter appropriate to subordinate legislation; and
- d) amends statutory instruments only; and
- e) allows the sub-delegation of a power delegated by an Act only—
  - (i) in appropriate cases and to appropriate persons; and
  - (ii) if authorised by an Act.

## Consultation

Over three years leading up to the 2021 ILUA and IMA execution, the Queensland Government consulted extensively with the Traditional Owners and Aboriginal people particularly concerned with the land, Jabalbina and Eastern Kuku Yalanji Clan Elders for the parcels in Cape York Peninsula Region. This required the Queensland Government and Jabalbina to undertake consultation through correspondence and meetings in Cairns, Mossman, Daintree, Cow Bay, Cape Tribulation, Wujal Wujal, Ayton, Rossville, Shipton's Flat, Mungumby, Townsville, Yarrabah, Palm Island, China Camp and Battlecamp, as well as via videoconference. Jabalbina received independent legal advice as part of the broader land dealing.

In addition, Queensland Government also consulted with Cook Shire Council, Douglas Shire Council, Charters Towers Regional Council, Flinders Shire Council, Townsville City Council, Energy Queensland and Powerlink Queensland, Cape York Land Council Aboriginal Corporation, North Queensland Land Council Aboriginal Corporation and the National Native Title Tribunal in relation to the proposed actions.

Public notices were published on the Department of Environment, Science and Innovation website on 12 and 19 July 2024 regarding consultation on the proposed amendment and seeking views in consideration of the *Human Rights Act 2019*, including Aboriginal peoples' and Torres Strait Islander peoples' cultural rights. No written responses were received in the 28-day consultation periods ending 16 August 2024.

The Office of Best Practice Regulation was notified of the proposal.

All parties consulted support the proposed amendments. No further changes to the Amendment Regulation were required as a result of the consultation.